

Thomas Jefferson "Opinion on the Constitutionality of the Bank of the United States" (1791)

There were only three banks in the entire country when Alexander Hamilton, in 1790, proposed the Bank of the United States to be modeled on the Bank of England. It would be a private institution under strict governmental supervision, and it would be useful to the United States Treasury in issuing notes, in safeguarding surplus tax money, and in facilitating numerous public financial transactions. President Washington questioned whether creating a bank was constitutional or whether it was an unconstitutional abuse of Congressional powers. Before signing the bank bill, Washington solicited the views of some of his cabinet members. The opinion of Jefferson, given below, elicited a rebuttal from Hamilton, which is the following document. As you read Jefferson's opinion think about how his belief that the bank was not constitutional reflected his Democratic-Republican political ideology.

I consider the foundation of the Constitution as laid on this ground-- that all powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states, or to the people. (10th Amendment). To take a single step beyond the boundaries thus specifically drawn around the powers of Congress is to take possession of a boundless field of power, no longer susceptible of any definition.

The incorporation of a bank, and the powers assumed by this bill, have not, in my opinion, been delegated to the United States by the Constitution.

The second general phrase is "to make all laws necessary and proper for carrying into execution the enumerated powers." But they can all be carried into execution without a bank. A bank therefore is not necessary, and consequently not authorized by this phrase.

It has been much urged that a bank will give great facility or convenience in the collection of taxes. Suppose this were true; yet the Constitution allows only the means which are "necessary," not those which are merely "convenient," for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase as to give it any non-enumerated power, it [the latitude] will go to for every one; for there is not one [power] which ingenuity may not torture into a convenience, in some instance or another, to some one of so long a list of enumerated powers. It would swallow up all the delegated powers [of the states], and reduce the whole to one power...